

Introduced By: Kevin F. Coughlin, Ward Three Councillor

## CITY OF QUINCY

### IN COUNCIL

ORDER

FEBRUARY 6, 2012

ORDERED

Be It Ordained That the Quincy City Council adopts the following amendment to the Municipal Code

#### Chapter 5.60

#### AN ORDINANCE REGULATING PUBLIC DONATION COLLECTION BINS

##### **5.60.010 Definitions.**

As used in this chapter, the following terms shall have the meaning indicated:

Donation Collection Bin-Any enclosed receptacle or container made of metal, steel or similar product and designed or intended for the donation and the temporary storage of clothing or other goods and materials.

Operator- Any person or legal entity that owns, operates or is otherwise in control of a donation collection bin in the City of Quincy and is registered as a not-for-profit recognized in good standing with the Office of the Secretary of State.

##### **5.60.020 Prohibitions and Standards**

It shall be unlawful for any person to place a donation collection bin within the City of Quincy without first obtaining an annual license from the City Clerk subject to approval by the License Board as hereinafter provided. Each operator who seeks to place a donation collection bin in the City of Quincy shall complete a written application on a yearly basis on a form provided by the City Clerk.

A donation collection bin, subject to the provisions of this chapter, must have clearly identified, in writing on its face, the name of the entity or organization that is operating and maintaining the donation collection bin. A telephone number and address for such entity must be clearly displayed along with a collection schedule. No further advertising shall be permitted on the donation collection bin.

Upon receipt of an approved license, a donation collection bin may be placed only on non-residential property within a Business A, B, or C zoning district in accordance with the following:

- (1) Nonresidential commercial premises and premises devoted to non-profit purposes and religious institutions are permitted up to three donation collection bins on said premises unless otherwise permitted by the License Board.
- (2) The donation collection bin(s) shall be appropriately located so as to not interfere with sight triangles, on site circulation, required setbacks, landscaping, parking or any other zoning requirements and shall be placed on a concrete surface. They shall not be placed at any location on a commercial premise

directly abutting a residential neighborhood and shall comply with all setbacks as defined within Chapter 17 for accessory structures. They shall be properly screened from views as approved by the Licensing Board and shall not consume any available parking spaces required for the permitting or zoning requirements of the premise where sited.

- (3) The donation collection bin(s) shall be of the type that are enclosed by use of a receiving door and locked so that the contents of the bin(s) may not be accessed by anyone other than those responsible for the retrieval of the contents.
- (4) Each donation collection bin shall not cover a ground surface area in excess of five feet by five feet, nor be more than six feet in height unless otherwise permitted by the License Board.
- (5) Each donation collection bin must be regularly emptied of its content so that it does not overflow, resulting in used clothing or other donated goods and materials being strewn about the surrounding area. All donation collection bins must be maintained in a state of good repair and in a neat and clean condition, and free of trash, debris, refuse or like material.

#### **5.60.030 Application for License**

- A. Any person or entity desiring a license under this chapter shall file with the City Clerk an original and one copy of an application, submitted under oath, in writing on a form furnished by the City Clerk. A hearing before the Licensing Board shall be required prior to approval.

The application shall set forth the following information:

- (1) The applicant's name, business name, business address and telephone number as well as the name, address and telephone number of the person or persons responsible for maintaining each donation collection bin which shall be posted on each bin as previously cited. For the purposes of this chapter there must be a bona fide office of any person or entity which may share or profit from any donations collected via the bin and maintain the bin at which such person can be reached during normal business hours. An answering machine or service does not constitute a bona fide office.
- (2) Whether the applicant is an individual, a partnership, a corporation or another entity, and if another entity, a full description thereof and whether the entity is a non-profit organization.
- (3) If the applicant is an individual, the applicant's residential address.
- (4) If the applicant is a partnership, the full name and address of each partner.
- (5) If the applicant is a corporation or other entity, in the case of a corporation, the full name and address of the principal officer, the name and address of the principal office of the corporation.
- (6) Whether the applicant has ever been convicted of a crime or entered into a plea agreement to the commission of a crime, and, if so, the crime or charge involved and the disposition thereof.
- (7) A description of the donation collection bin to be covered by the license as well as the address where the donation collection bin(s) will be located. There shall be attached to the application a

detailed drawing indicating the position of permanent structures on the site including buildings and driveways, lot lines and the location of the proposed bin(s) along with photographs of the site.

- (8) If the applicant is not the owner of the property upon which the donation collection bin is to be located, the written notarized consent of the property owner on letterhead must be attached to the application. The consent shall include the name, address, and telephone number of the owner, lessee or other person or legal entity in control of the property where each such donation collection bin shall be placed. The applicant shall certify on the license application that no fee is being paid to the property owner upon which the bin is being placed and shall provide written confirmation of this along with the written notarized consent from the property owner.
- (9) The manner in which the applicant anticipates any donations collected via the bin would be used, sold or dispersed, and the method by which proceeds of collected donations would be allocated or spent.
- (10) The regular interval schedule at which the operator or person identified in the license collects the items donated and performs regular maintenance. Said interval shall not exceed thirty (30) days. The schedule of collection must be posted on the collection bin.

#### **5.60.040 Fees**

The fee for the issuance of an initial license to place a donation collection bin in the City of Quincy and each annual renewal shall be \$150.00 for each donation collection bin. The license period for each donation collection bin shall be January 1 through December 31 of each year.

Upon the granting of a license, a permit shall be affixed to every bin used by the license holder for the collection and storage of donated clothing, goods or other materials. A permit issued to an applicant shall be affixed to each bin prior to placement of the bin. The permit shall be clearly placed on the same side of the bin as the chute used to deposit donated items. Next to the permit there shall be placed in clear lettering the name and telephone number of the operator. Upon the sale or transfer of a bin, a new license and permit shall be sought and if granted to a subsequent owner, the permit must be affixed to the bin prior to placement in service. The City Clerk shall provide a list of all approved locations for donation bins to the Quincy Fire Department.

The provisions of this chapter shall apply to both existing and future donation collection bins located within the city

#### **5.60.050 Violation, penalties and enforcement**

- A. Any person, entity, partnership, firm or corporation violating any of the provisions of this chapter shall be punished by a fine of not less than \$50.00 but not exceeding \$100.00 for each individual violation
- B. Each violation of any of the provisions of this chapter and each day the same is violated shall be deemed and taken to be a separate and distinct offense.
- C. The owner, lessee, or other person or legal entity in control of the property where the donation collection bin is being maintained and the person or entity which owns, maintains or operates said bin in

violation of this chapter shall be jointly and severally liable for each violation thereof and for payment of the fine assessed.

- D.** Any failure to comply with the provisions of this chapter which exceeds thirty days shall result in the revocation of the license granted by the License Board and an order of removal of the donation collection bin. Failure to comply with an order of removal may result in such removal by the city. In addition to any other penalties imposed in this section, the city shall be entitled to recover a penalty in the amount equal to three times the cost or expense incurred by the city if an order of removal is not complied with resulting in removal by the city. No person or entity whose license under this section is revoked for any cause shall be granted another license under this section, under the same or different name.
- E.** In addition to any other penalties imposed in this section, any person who knowingly makes any false statement, submits any false information or misrepresents any information required under this section shall be fined \$100.00 per offense. It shall be a cause of revocation of the permit if the applicant has made any false statement, submitted any false information or misrepresented any information under this section.
- F.** The City of Quincy Licensing Board shall be the enforcement authority for this chapter.

#### **5.60.060 Severability**

In the event that any provision of this chapter shall be deemed illegal or otherwise unenforceable by a court of competent jurisdiction, then only that specific provision shall not be enforced, and all other sections shall remain in full force and effect.

#### **5.60.070 Implementation**

The provisions of this ordinance shall be effective immediately upon passage and enactment, but no monetary fine shall be imposed pursuant hereto until ninety (90) days after passage. Application under this ordinance by existing donation bin operators must be made within thirty (30) days of enactment of this ordinance.